IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIRST DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 1571 of 1993

Between:

Government of India Rep.by the Collector-II,Central Excise Collectorate, Hyderabad.

..... PETITIONER

AND

1 Managing Director, Andhra Pradesh State Financial

Corporation, Chirag Ali Lane Hyderabad.
2 M/s.Veejay Metal Products (P) Ltd.,
Domar Pochempally Ranga Reddy District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction or writ more particularly one in the nature of Writ of Mandamus to direct the 1st respondent herein to pay the due amount of Rs.3,19,120.19 Paise (Rupees three lakhs nineteen thousand one hundered and twenty and nineteen paise only) which was due from the 2nd Respondent towards Central Excise due and penalty after sale of the assets of the 2nd Respondent herein interest of land admeasuring 4.16 guntas along with constructed buildings admeasuring 9,266 Sq.Ft. including machinery i.e., Deep Drawing Hydraulic Process etc. situtated at Domar Pochampally in Ranga Reddy Dist, and pass such other order or orders

Counsel for the Petitioner:MR.A.RAJASHEKAR REDDY (SC FOR CG)

Counsel for the Respondent No.1 : MR.Y.N.LOHITA

Standing Counsel for A.P.S.F.C

The Court made the following O R D E R

(Per the Hon'ble Sri Justice Bilal Nazki):

Heard learned counsel for the parties.

This writ petition has been filed by the Department of Excise against Managing Director of Andhra Pradesh State Financial Corporation, and another private respondent. The case of the petitioner is that second respondent had to pay an amount of Rs.3,19,120/- towards liability under the Excise Act. In the meantime, the property was taken over by first respondent and was put to auction. At that time, the petitioner Department approached this Court with the following reliefs.

> "To direct first respondent to pay the due amount of Rs.3,19,120.19 paise, which was due from second respondent towards Central Excise duty and penalty immediately after sale of the assets of second respondent in respect of land ad measuring Ac.4.16 gts along with constructed buildings ad measuring 9,266 sq.ft., including machinery i.e., deep drawing hydraulic process etc., situated at Domar Pochempally in Ranga Reddy District".

We are told at the bar that the property was taken over by first respondent and was auctioned much before. We fail to understand as to why should this Court entertain a writ petition of the present nature, where the petitioner Department, itself can exercise its powers under Excise Act, and order recovery of any amounts due. There are ample powers available to Excise Department under Section 11 of the Central Excises and Salt Act, 1944 and the Rules made thereunder to recover the amounts due to it from any person. If the second respondent was in arrears and now the first respondent has come into his shoes, it is for the petitioner Department to see how to exercise its own powers to recover the amounts due from second respondent. We

feel that the writ petition itself is not maintainable and it is accordingly dismissed. No order as to costs.

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(Bilal Nazki,J)

1st July, 2004.

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(P.S.Narayana,J)

vrn

To

1. Managing Director, Andhra Pradesh State Financial Corporation,Chirag Ali Lane, Hyderabad.
2. Two C.D copies.